

MEMO ENDORSED

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January 29, 2021

Via ECF

Hon. Valerie E. Caproni
United States District Court for the
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *In re Commodity Exchange, Inc., Gold Futures and Options*
Trading Litigation, No. 14-md-2548 (VEC)

Dear Judge Caproni:

We write on behalf of The Bank of Nova Scotia, and on behalf of Barclays Bank PLC, Société Générale, and The London Gold Market Fixing Limited (“Defendants”), to respectfully request that the Court seal portions of Defendants’ January 29, 2021 Memorandum of Law in Support of Their Motion to Depose Rosa M. Abrantes-Metz and Gustavo Bamberger (the “January 29 Memorandum”) and exhibits B-E enclosed thereto.

On January 18, 2017, the Court entered the Stipulation and Protective Order (Dkt. No. 208) (the “Protective Order”), which states that “[a]ll Confidential or Highly Confidential Discovery Material filed with the Court, and all portions of pleadings, motions or other papers filed with the Court that disclose such Confidential or Highly Confidential Discovery Material, shall be filed under seal with the Clerk of the Court and kept under seal until further Order of the Court.” The documents described in and attached to the January 29 Memorandum were designated “Confidential” by Plaintiffs and filed under seal on November 18, 2020 (ECF No. 476).

Paragraph 16 of the Protective Order states that, for documents “subject to a confidentiality designation” included in or attached to a court filing, the “party submitting that filing shall serve counsel for the producing Person or other Person designating the Discovery Material with a copy of the filing at the time the filing under seal is made.” As set out in the Protective Order, Defendants are serving a copy of the January 29 Memorandum and the enclosed exhibits on Plaintiffs, and to the extent

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Plaintiffs continue to designate these materials as “Confidential,” will submit a statement to the Court within ten business days containing any statements from Plaintiffs on why sealing the redacted material is appropriate.

For the foregoing reasons, we respectfully request that the redacted portions of Defendants’ January 29 Memorandum and exhibits B-E be filed under seal.

Respectfully submitted,

/s/ Stephen Ehrenberg

Stephen Ehrenberg

cc: Counsel of Record (via ECF)

By no later than **Friday, February 12, 2021**, Plaintiffs must inform the Court whether they object to the filing of unredacted versions of Defendants' memorandum of law and exhibits at docket entry 509 on the public docket. If Plaintiffs object, they must explain why such redactions are warranted given the presumption of access in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d Cir. 2006). Plaintiffs are welcome to propose more narrow redactions; though Plaintiffs must demonstrate that any proposed redactions overcome the *Lugosch* presumption. The Court encourages the parties to consult the Court's endorsements at docket entries 480 and 494. If Defendants would like to reply to Plaintiffs' letter, they must do so by no later than **Friday, February 19, 2021**.

SO ORDERED.



Date: February 1, 2021

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE